

## SENATE BILL No. 393

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 31-17-6; IC 31-32; IC 34-46-2.

**Synopsis:** Privilege for guardians ad litem. Provides that a report prepared by a guardian ad litem or court appointed special advocate and attachments to the report may be read only under certain circumstances. Makes communications in a case involving custody or visitation or in a case in juvenile court between a child and a guardian ad litem or court appointed special advocate appointed to represent and protect the best interests of the child privileged, confidential, and protected except in certain circumstances. Abrogates that privilege for purposes of reporting child abuse or neglect or testifying in a case related to abuse or neglect. Exempts from the scope of the privilege the ability of a guardian ad litem or court appointed special advocate to  
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**Effective:** July 1, 1999.

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January 11, 1999, read first time and referred to Committee on Judiciary.

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Digest Continued

present evidence regarding an investigation or report required by the court in a case involving custody or visitation. Makes a conforming amendment.

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Introduced

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

## SENATE BILL No. 393

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 31-17-6-6 IS AMENDED TO READ AS
- 2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. (a) A guardian ad
- 3 litem or court appointed special advocate appointed by a court under
- 4 this chapter may subpoena witnesses and present evidence regarding:
- 5 (1) the supervision of the action; or
- 6 (2) any investigation and report that the court requires of the
- 7 guardian ad litem or court appointed special advocate.
- 8 (b) The following apply to a report prepared by a guardian ad
- 9 litem or court appointed special advocate under subsection (a)(2):
- 10 (1) The report must be delivered to the judge in chambers.
- 11 (2) Only the parties and their attorneys are entitled to read
- 12 the written report. A party may not obtain a copy of the
- 13 written report but is entitled to read the written report in the
- 14 judge's courtroom or chambers or another place designated
- 15 by the judge.



(3) The written report is confidential except as provided by order of the judge.

(4) A copy of the written report, or any part of the written report, may not be made an exhibit to or part of the open court file.

(5) A child who is the subject of the written report may not see a copy of the written report or be advised of its contents by anyone.

(6) A party may not reproduce the report or any part of the report except for the recommendations section.

(7) The written report may be received as direct evidence of the facts contained in the written report that are within the personal knowledge of the guardian ad litem or court appointed special advocate who prepared the written report.

(8) Any confidential exhibits attached to a written report may not be distributed to anyone without an order of the court but may be viewed, upon request of counsel or a party, in the judge's courtroom, chamber, or other place designated by the judge or master. Statements of a child may not be viewed without an order of the court.

SECTION 2. IC 31-17-6-8.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 8.5.** Except as provided in section 6 of this chapter and IC 31-32-11-1, a guardian ad litem or court appointed special advocate who is appointed to represent and protect the best interests of a child under section 1 of this chapter is immune from disclosing privileged or confidential communications made by the child to that person during the time that person is acting within the duties of the guardian ad litem or court appointed special advocate program. Except as provided in section 6 of this chapter and IC 31-32-11-1, the matters communicated are privileged and protected against disclosure.

SECTION 3. IC 31-32-3-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 11.** Except as provided in IC 31-32-11-1, a guardian ad litem or court appointed special advocate who is appointed to represent and protect the best interests of a child under section 1 of this chapter is immune from disclosing privileged or confidential communications made by the child to that person during the time that person is acting within the duties of the guardian ad litem or court appointed special advocate program. Except as provided in IC 31-32-11-1, the matters communicated are privileged and



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protected against disclosure.

SECTION 4. IC 31-32-11-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. The privileged communication between:

(1) a husband and wife;

(2) a health care provider and the health care provider's patient;

(3) a:

(A) certified social worker;

(B) certified clinical social worker; or

(C) certified marriage and family therapist;

and a client of any of the professionals described in clauses (A) through (C);

(4) a school counselor and a student; **or**

(5) a school psychologist and a student; **or**

**(6) a child and a guardian ad litem or court appointed special advocate appointed to represent and protect the best interests of the child;**

is not a ground for excluding evidence in any judicial proceeding resulting from a report of a child who may be a victim of child abuse or neglect or relating to the subject matter of the report or failing to report as required by IC 31-33.

SECTION 5. IC 34-46-2-25.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 25.6. IC 31-17-6-6 (Concerning reports of guardians ad litem and court appointed special advocates).**

SECTION 6. IC 34-46-2-25.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 25.7. IC 31-17-6-8.5 and IC 31-32-3-11 (Concerning information communicated to a guardian ad litem or court appointed special advocate in the guardian's or advocate's professional capacity).**

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